

**DECISION  
GRAFTON PLANNING BOARD**

**SPECIAL PERMIT (SP 2018-16) & SITE PLAN APPROVAL  
Keeping of Livestock (2 Horses) on Less than Five Acres of Land**

**14 George Hill Road, Grafton, MA**

**Nicholas Frank & Jerlyn Sponseller (Applicant/Owner)**

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Decision of the Grafton Planning Board (hereinafter the Board) on the petition of Nicholas Frank & Jerlyn Sponseller (hereinafter the Applicants), for a Special Permit and Site Plan Approval under Section 3.2.3.1 (Use Regulation Schedule) of the Grafton Zoning Bylaw (ZBL) to allow the raising and keeping of livestock (horses) on less than five acres of land for property located at 14 George Hill Road, Grafton, MA 01519 (hereinafter the Site) , and shown on Grafton Assessor's Map 68, Lot 10D and owned by Nicholas Frank & Jerlyn Sponseller by deed recorded in the Worcester District Registry of Deeds in Book 47404 , Page 255.

**I. BACKGROUND**

The application for the above referenced Special Permit / Site Plan Approval (hereinafter Application) was submitted on October 9, 2018. Notice of the public hearing and the subject matter thereof was published in the Grafton News on October 19 and 26, 2018, posted with the Town Clerk's Office on October 12, 2018 and abutters were notified by First Class Mail. The public hearing on the Application was held on November 5, 2018, at which time all those wishing to speak to the petition were heard and following public input the hearing was closed on November 5, 2018.

The following Board members were present throughout the public hearing: Chairman Robert Hassinger, Vice Chairman Linda Hassinger, Clerk Sharon Carroll-Tidman, Members David Robbins, Michael Scully, and Associate Member Paul Monroe. At the hearing, John Carlson a spokesperson for the Applicants presented the application to the Board.

**II. EXHIBITS**

The following items were submitted to the Board for its consideration of this application:

1. Unbound application packet prepared by the Applicant, received October 9, 2018; including the following:
  - Application for Special Permit, dated October 29, 2018, received October 30, 2018, 1 page.
  - Application for Site Plan Approval dated October 8, 2018, 1 page.
  - Certificate of Good Standing, signed by Treasurer/Collector's Office on October 5, 2018, 1 page.
  - Certified Abutters List, dated October 9, 2018, 1 page.
  - Correspondence from the Applicant, regarding owner authorization, no date, 1 page.
  - Correspondence from Applicant Representative, project description, 1 page.
  - Hand drawn stable plan, 8 1/2"x11", black & white, 1 page.
  - Plan entitled "Site Plan - 14 George Hill Rd", prepared by Applicant, 1 page.
  - Assessors Property Card of 14 George Hill ROA, 1 page.

- GIS Map with hand drawn location of proposed stable location on Site, July 30, 2018, 1 page.
  - Correspondence from Applicant Representative, waiver requests, 1 page.
2. Public Hearing Notice, stamped by the Town Clerk's office on October 12, 2018, 1 page.
  3. Email Correspondence from Police Chief, Re: 14 George Hill Road – Frank – Two Horses on Less Than Five Acres, dated / received October 17, 2018, 1 page.
  4. Email Correspondence from Board of Health, Re: SP2018-16, dated October 18, 2018, received October 19, 2018, 1 page.
  5. Email Correspondence from Zoning Board of Appeals, Re: 14 George Hill Road – Frank – Two Horses on Less Than Five Acres, dated / received October 25, 2018, 1 page.
  6. Correspondence from Abutters John J. Barton, Esq., Hella G. Rinner and Katrina R. Altmaier, D.V.M., 5 George Hill Road, note date, received October 30, 2018, 1 page.

### **III. FINDINGS**

At their meeting of November 19, 2018, after due consideration of the exhibits submitted and the entire record of proceedings introduced and accepted in this matter, the Grafton Planning Board (motion by Mr. Robbins, seconded by Mrs. Hassinger) voted 5-0 in **FAVOR** to make the following Findings:

1. That determinations regarding the following findings are based upon the plans identified in this Decision, as well as the information and materials submitted and presented in association with the Application.
2. That determinations regarding the following findings are also predicated upon satisfactory completion of the work shown on the Plans in accordance with this Decision, as well as all applicable Federal, State and Local regulations, except where modified by this Decision.
3. That per ZBL Section 3.2.3.1, the allowance for raising and keeping of livestock, including but not limited to: horses, on a parcel under five acres of land is authorized with the issuance of a Special Permit within the Agricultural (A) zoning district by the Planning Board.
4. That the Planning Board previously issued a Special Permit (SP-94-6) for the keeping of horses at the property located at 14 George Hill Road to the previous owners.
5. That the Site, as identified by the Applicant and shown in the Exhibits of this Decision, is approximately 2.88 acres in size and is not located within the Water Supply Protection Overlay District.
6. That during the public hearing Mr. Carlson discussed that the Owners want to rebuild a horse barn on the site that had recently been destroyed by a fire. The Owners were informed, by the Building Department, that due to the size of the lot they would need to apply for a Special Permit through the Planning Board if they wished to continue keeping horses on the site.
7. That during the public hearing Mr. Carlson discussed that the proposed site improvements would be installing a 20' x 30' barn, keeping the same footprint as the existing. The barn would be

conventional wood frame construction with a concrete foundation and asphalt shingles. The barn would have a total of four stalls and an alley way. Two stalls would be for the Owner's horses and two more for storage associated with the horses such as hay, feed, saddles, tack, etc.

8. That ZBL Section 1.3.3.2, requires that the procedure for Site Plan Review be incorporated into the procedure for reviewing Special Permits.
9. That ZBL Section 1.3.3.3 defines the procedure for Site Plan Review, including a description of the plans and materials to be submitted to the Planning Board. The Board further finds that Section 1.3.3.4 of the ZBL allows an applicant to request waivers from certain requirements of the Site Plan Review procedure.
10. That pursuant to Section 1.3.3.4 of the ZBL, the Applicant requested waivers from the following requirements for preparing site plans, as follows (Exhibit #1):
  - Section 1.3.3.3 (d)(9) – (31)
  - Section 1.3.3.3 (e) – Stormwater Management Hydrological Study,
  - Section 1.3.3.3 (f) – Earthwork Calculations,
  - Section 8.2.1 – Traffic Study
11. That with respect to the nature of this particular Application (Exhibit #1), the waivers requested, and the resulting site plan are not contradictory or inconsistent with the intent and purposes set forth in Section 1.2 and 1.3.3.1 of the ZBL.
12. With regard to Section 1.5.5(a) of the ZBL that based upon the Findings stated within this Decision ingress and egress to the property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control and access in case of fire or catastrophe, is adequate.
13. With regard to Section 1.5.5(b) of the ZBL, that based upon the Findings stated within this Decision, off-street parking and loading areas where required, and the economic, noise, glare, or odor effects of the Special Permit on adjoining properties and properties generally in the district are satisfactory. The Board finds that this requirement does not apply to this Application based on the nature of the proposal.
14. With regard to Section 1.5.5(c) of the ZBL, that based upon the Findings stated within this Decision, refuse collection or disposal and service areas do not change. The Board finds that this requirement does not apply to this Application based on the nature of the proposal. The Board further notes that the Applicant has stated that they will hire a waste management company to haul the manure off site as needed.
15. With regard to Section 1.5.5(d) of the ZBL, that based upon the Findings stated within this Decision, screening and buffering with reference to type, dimensions and character are not applicable to this Application based on the nature of the proposal.

16. With regard to Section 1.5.5(e) of the ZBL, that based upon the Findings stated within this Decision, signs and exterior lighting with reference to glare, traffic safety, economic effect are not applicable to this Application based on the nature of the proposal.
17. With regard to Section 1.5.5(f) of the ZBL that based upon the Findings stated within this Decision the required yards and other open space requirements do not change. The Board finds that the Applicant has stated they will not be utilizing an existing paddock area and do not intend on clearing any trees as part of this application.
18. With regard to Section 1.5.5(g) of the ZBL, that the proposed sign and its use (as presented in the Exhibits stated within this Decision and by the Applicant during the public hearing) is not applicable to this Application based on the nature of the proposal,
19. With regard to Section 1.5.5(h) and (i) of the ZBL, that upon satisfying and complying with all applicable Board of Health requirements, and based upon the Findings stated within this Decision, there will not be any significant adverse impact on any public or private water supply or municipal water supplies. The Applicant has stated they will be hauling the manure off site as needed.
20. With regard to Section 1.5.5(j) of the ZBL that based upon the Findings stated within this Decision, protection of important historic, cultural and scenic landscapes with regard to the proposed development does not change.

#### **IV. WAIVERS**

At their meeting of November 19, 2018 after due consideration of the Exhibits submitted and the entire record of proceedings introduced and accepted in this matter, and based on Findings stated within this Decision, the Grafton Planning Board (motion by Mr. Robbins, seconded by Mrs. Hassinger) voted 5-0 to **GRANT** the Applicant's request for waivers from the following Sections of the ZBL noting the granting of these waivers would not negatively impact the neighborhood or the intent of the bylaw:

##### **1. Section 1.3.3.3 (d) Site Plan Requirements:**

- (9) Title Block;
- (10) Wetlands, Ponds, Streams, or other water bodies, including all applicable buffer zones
- (11) Abutting ownership and approximate location of buildings within 200' of the property;
- (12) Existing and proposed topography;
- (13) Building setbacks and parking areas;
- (14) Extent and type of all existing and proposed surfaces;
- (15) Lot coverage calculations;
- (16) Parking Calculations;
- (17) Earth removal;
- (18) Driveways and driveway openings/entrances;
- (19) Parking and loading spaces;
- (20) Service areas;
- (21) Landscaping;
- (22) Lighting;

- (23) Proposed signs;
- (24) Sewage, refuse and other waste disposal;
- (25) Stormwater management;
- (28) Utilities;
- (29) Dust and erosion control;
- (30) Existing vegetation;
- (31) Additional materials unique to the application;

- 2. **Section 1.3.3.3 (e)** – Stormwater Management Hydrological Study
- 3. **Section 8.2.1** – Traffic Study

#### **V. DECISION and CONDITIONS**

At their meeting of November 19, 2018, after due consideration of the exhibits submitted and the entire record of proceedings introduced and accepted in this matter, the Grafton Planning Board (motion by Mr. Robbins, seconded by Mrs. Hassinger) voted 5-0 to **APPROVE** this Special Permit (2018-16) and Site Plan Approval with **CONDITIONS** as follows:

- 1. This Special Permit and Site Plan Approval specifically authorizes the raising and keeping of two (2) horses on less than five (5) acres of land as described in the Exhibits and Findings of this Decision.
- 2. This Special Permit and Site Plan Approval only authorize the Applicant to raise and keep horses on the Site, cannot be transferred and does not run with the land.
- 3. The Applicant is required to adhere to best management practices for the care and keeping of horses so as not to cause a nuisance to the abutting properties with regard to odor or noise.
- 4. The Applicant shall not clear any additional trees to ensure an adequate buffer from abutting properties and shall maintain the fencing surrounding the open field/pasture area in a manner sufficient to serve its intended purpose.
- 5. Manure shall be contained in a non-porous manner in accordance with all applicable regulation and located away from existing well locations. Manure shall be removed from the premises as needed or as frequently if other applicable regulations deem such action necessary, or in the event that either quantity or odor creates a nuisance or threat to public health.
- 6. Any changes to the plan presented in this Application may be made only upon authorization from the Planning Board. Such authorization shall only be granted provided the Board finds that any change(s) requested by the Applicant is not substantially different than the plan presented within the Exhibits of this Decision, and is consistent with the intent and purpose of this Decision. Requests for such change(s) shall be submitted in writing to the Planning Board. Any proposed change deemed substantial in nature shall require a modification of the original Special Permit and Site Plan Approval application and decision. Any modification shall be made pursuant to Section 1.3.3 of this Bylaw.

7. Failure to comply with the requirements of Section 1.5 of the ZBL (or as modified by this Decision), as well as all applicable Federal State and local regulations, shall cause this Special Permit to be invalid.
8. In accordance with ZBL Section 1.5.8, this Special Permit and Site Plan Approval shall lapse within one (1) year from the date of the expiration of the appeal period if substantial use, or construction, has not been commenced except in accordance with the law. Any request for an extension of said period of validity shall be considered a Modification of this Special Permit and Site Plan Approval, and such request shall be filed and reviewed in accordance with the procedure specified in ZBL Section 1.5.
9. This Special Permit and Site Plan Approval shall not take effect until the Decision has been recorded at the Worcester District Registry of Deeds (WDRD) and a copy of the recording provided to the Planning Board and the Building Department to include the WDRD Book and Page Number and/or Instrument Number within thirty (30) days of recording.
10. By recording this Special Permit Decision in the Worcester District Registry of Deeds, the Applicant agrees to and accepts the conditions set forth in this Special Permit Decision. Any inability, failure or refusal by the Applicant to comply with the requirements of this Special Permit Approval, when notified of failure of compliance, shall be grounds for the immediate denial of building, construction or occupancy permits with respect to this project.
11. The Applicant shall comply with all requirements of Section 1.3.3 – Site Plan Review – of the Grafton Zoning Bylaw. Pursuant to Section 1.3.3.9, all work shown on the approved site plan shall be completed and all related conditions of approval shall be satisfied prior to the issuance of an occupancy permit.

## **VI. RECORD OF VOTE**

Constituting a majority of the Planning Board, the following members voted to **APPROVE** the Applicant's Special Permit (SP 2018-16) and Site Plan Approval application to allow the raising and keeping of two (2) horses as described in this Decision with Conditions on property located at 14 George Hill Road, Grafton, based on the information received at the public hearing, exhibits, and the aforementioned Findings:

Robert Hassinger, Chairman

David Robbins, Member

Linda Hassinger, Vice Chairman

Michael Scully, Member

Sharon Carroll-Tidman, Clerk

**DATE OF FILING OF DECISION:                      BY ORDER OF THE BOARD**

  
\_\_\_\_\_  
Joseph Laydon, Town Planner

11-20-2018  
\_\_\_\_\_  
Date

cc:     Applicant/Owner                      Board of Health  
         Building Inspector                      Inspector of Animal

**To Whom It May Concern:** This is to certify and verify that twenty (20) days have elapsed since this decision was filed in the Town Clerk's office and that no appeals have been filed in reference to same, or that, if such appeal has been filed, it has been dismissed or denied.

Kandy Lavallee, Town Clerk

\_\_\_\_\_  
Date